G. R. S. IX—5]

Previous references 1923 (courts) **File No.** 27-23

Ch 76-23-1 **Serial Nos.** 1-3

" 1-22 (1-7)

" 161-1909-10 (1-4)

Later references

Preserve

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Nuce

Part B for May 1924

SUBJECT.

Supply of copies of records in appeal cases. Latest rules from Courts and Court Advocate

Nop. 6480-1923-5-24.

To The Dy Bangalore
S.S. of Police

Invites attention to Rules nos 57 67 + 72 of the Rules for the conduct of Legal affairs of Govt Publication No. Nop 149 66-5045/Ch 76-23-12 dt 12/19-3-24

Mamamamy Ginger
27/5/24

G. R. S. 11] 1923-4

GENERAL AND REVENUE SECRETARIAT.

(Cls)

NOTES.

File No. 27-23

FILE HEADING.

Supply (of copies) of Records in appeal cases to the Govt Advocate.

From

The D. M. Bangalore

PC No. 48 Dated 6/12-7-23 Received 14/16-7-23

Diary No. 249	Enclos.	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards a copy of letter no He 155 dt 9-5-1923 from the Asst Supt of Police, Chennapatna inviting to notice the several difficulties experienced in preparing copies of depositions etc. by the Police for the use of the Public Prosecutor and Govt Advocate.

NOTES AND ORDERS.

Accepted and

The Assistant Supt of Police has raised out 7 difficulties of these the first one is whether a court record is a public document. The Govt order of the 19th January 1923 simply wants copies of depositions and exhibits which are

P

Serial No.

given to the accused and parties to the case. Hence a public officer can obtain them and get them copied.

2. It is true that the judge or magistrate is not at all bound to allow the taking of copies. But it is difficult for them to refuse for legal purposes and hence there will be no denial.

3. The G.O does not assume a right for copies nor the duty to allow taking copies. It is not assumed that the police ~~record~~ require copies in all cases. Only in important cases where there will be an appeal against the order of acquittal. It will not be difficult to find out such cases & the progress of the trial is watched.

4 & 5. The Govt order does not say that the Prosecuting Inspector is a Court copyist but he has to get copies made by ~~means of~~ the help of the literate Constables.

6. This is not clear. Parties get copies of depositions as soon as they are over. The accused gets copies of depositions free. The lawyers for them arguments get copies. Hence the depositions & witnesses are not locked up in boxes. If the depositions are reprinted ~~soon~~ early, they will be available

NOTE—Contn. sheet.

G. R. S. III-2.

General and Revenue Secretariat. | (4) File No. | of 19 2 3 · 4

Serial No.

(6.a) This is an assumption. This was not done in Criminal Courts. The first Advocate with the help of his staff was getting copies. As his establishment is limited and as he could not be given any hand, the new procedure was laid down

7. If it is so, the S.P.'s office should be requested to post one competent and qualified man. It will not be difficult to get qualified recruits for the posts in these days.

The Govt. order does not say that certified copies should be sent. The initials of the Copyist is sufficient for all purposes as these copies are not to be filed in Courts or Courts but meant for information to the first Advocate.

After all the number of cases for which copies are required may be not many. During the last year there were only 10 appeals against the orders of acquittal out of which 3 are against the orders of acquittal passed by the Sessions judges. There was only one appeal against the order of acquittal passed by the Sessions judge Bangalore Dr. For Magistrates' orders there were 3 appeal in Bangalore Dr., 2 in Tumkur and 2 in /

NOTE—Contn. sheet.

4424

G. R. S. III-2.

General and Revenue Secretariat. | CS File No. 21 of 1923

Serial No.

To take copies of records in 4 cases in Bangalore Dt. for a whole year is not a heavy work and does not require any additional establishment. The difficulties enumerated seem to be exaggerated. Some precedents

After all the Executive instructed the police officers to 19/7/23 take copies in Sessions cases. In Case disposed of in Magistrate's Courts, the Magistrate sends copies of records to the D.M. by asking his clerk or the police to prepare copies.

Submit for orders

2) From Dy. G.S. Retr. No. 248 of 9.6.23

19.7.23 Requests that a clerk may be given to each Public Prosecutor or to the Head of Police to prepare copies of judgment etc required for the final disposal

Submd

Rules 67 & 72 make the Magistrate responsible for sending records to the final disposal. If approved, the D.C. Bangalore will be informed of the same as well as the Dy. G.S. Retr. with a draft Under the rules now in force issued for the conduct of Legal affairs, the duty falls on the District Magistrate. A reply to that effect may be sent

Cag 20/7

NOTE—Contn. sheet.

4424 5

G. R. S. III-2]

General and Revenue Secretariat.

cf- File No. 27 of 1924

Serial No.	
	May the draft in the file issued? cf. 21/5/24 Cag 24/5
3	To The Dom: Bangalore Inspr. General of Police No. P. 6480-1. dt 23.5.24 With ref^e to their Communications pls 1 & 2. invite attention to rules nos. 51, 67 & 72 of the rules for the conduct of Legal affairs of Govt. published in Go. no. P. 4966-5045/Cbs. dt 10/19-3-24

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26/5

NOTE—Contn. sheet.

6 249/10

Pe 48/23-24
en three.

1217 Office of the District Magistrate
Bangalore District

Dated Bangalore, 6th July 1923.

G 27-23-1

JUDICIAL AND REVENUE SECRETARIAT
14 JUL 1923
JUDICIAL BRANCH.

From

B. Venkoba Rao, Esq., B.A.,
District Magistrate, Bangalore District.

To

03 JUL 1923

The General Secretary to the Government
of Mysore, Bangalore.

Sir,

I have the honour to forward herewith for consideration of Government a copy of letter No.H.C.155 dated 9th May 1923 from the Assistant Superintendent of Police, Channapatna bringing to notice the several difficulties experienced in preparing the copies of the depositions by the Police for the use of the Public Prosecutor and the Government Advocate as per G.O.No.P.5845-68/Cts.1-22-7 dated 19th January 1923.

I have the honour to be,
Sir,
Your most obedient servant

District Magistrate,
Bangalore District.,

Letter No.H.C.155 dated 9th May 1923 from the Assistant Superintendent of Police, Channapatna, to the District Magistrate, Bangalore District.

Adverting to the ~~xx~~ Government Orders P.5845-58/Cts. 1-22-7 of 19-1-1923 re the preparation of copies of depositions by the Police for the use of the Public Prosecutor and the Government Advocate, I have the honour to state that -

(1) The question whether a Court record is a public document "which any person has a right to inspect," is outside the scope of the Section 76 of the Evidence Act.

(2) Under Cr.Rule of Practice 71, the Magistrate or Judge is not at all bound to allow the taking of copies. In fact the Rule Recognises the right of the Court to refuse in para VI of the same.

(3) The Government Order assumes and without any reason

(a) a right for copies,

(b) a duty to allow such copies being taken binding on a Judge or Magistrate

(c) that Police Officers really <u>need</u> such copies <u>indiscriminately</u> in each case.

and therefore

d) that they do take copies and as the necessary consequence of these assumptions demand that

(e) those copies be made available for the Public Prosecutor and the Government Advocate

Note:- These are mere assumptions, the one following the other, but not one is actually correct.

(4) The Prosecuting Inspector is not a Court copyist and it is not a legitimate duty binding on him.

(5) If he is compelled to become ex-officio a copyist then

(a) his legitimate prosecution work suffers

(b) travelling allowance has to be paid to him.

(c) and a substitute has to be found to act in his stead during the time he acts the copyist

(6) No Court will ever allow its records out of its box till judgment and so the Police Copyist will have to do it long after

I beg to state a case now in point.

I have been asked (R.J.C.1190/19-3-23 from District Magistrate) to find copies of judgment, depositions of witnesses and Exhibits etc. in the Bangalore Sessions Case No.18/22-23 and I have replied thus:--

'With reference to the above it is submitted that a Police Officer does not usually conduct any prosecutions in a Sessions Court and that the Police do not require to take any copy of any record except where further legal action appears called for, as arising out of the particular case and that in as much as in this case none has been taken, such copies are not available here for being sent to the Government Advocate

and as the Prosecuting Inspector of Closepet has to be found a reliever to enable him to proceed to Bangalore to take the copies (in the Court of the Sessions Judge or the Chief Court as may be) the matter is now pending with the District Superintendent, Bangalore, No.H.C.154/11th April 1923.

I may state in passing that in addition to passing orders for attention and observance, it is also essential that the means to carry out such orders should be found

The Government Order itself shows how the one point does not necessarily follow the other in sequence.

One other point is that while a copy is taken, who will certify its correctness? The point actually taken up by the Chief Court is (1) the payment to the copyist at one anna four pies, (2) payment of four pies to the examiner. 'See the Rule of Practice, 85, of 27th March 1913. It is not clear how they get over the Para 4 of the same Rule which recognises the grant free of cost of copies.

I think this free of cost copies refers to those to the Police, vide C.No.K.2068/Cts.161-19-4 dated 18th January 1911.

fully and freely as a call of duty and I crave permission for the same.

Note: As a case in point, I have received on the 5th instant the Chief Court Registrar's reply that I cannot get a certified copy of the Chief Court judgment confirming the death sentence unless copying and comparing fees are paid for the same I need this in the Nagadi Poison case H.Cr.8/64m, B.S.C.No.11/22-23 to enable me to run-in the poison-giver Madigara Venkata till now treated as a witness. In this case the Chief Judge wrote the judgment on the Bench itself, then and there, and I believe it might contain about 200 words. The cost will be two annas and eight pies to copy and compare, vide para 5 of the Rule of Practice, 85/27-3-1913. There is this 2 annas 8 pies to be found by me?

If I send a clerk, the T.A. works up to:--

Railway fare to and back to Bangalore.	1 10 6
Mileage for one mile, on bothways to Public Offices.	0 4 0
Batta for one day.	0 6 0
Total.	Rs.2 4 6 only.

If this should be for Sorab Taluk, the cost will be near Rs.40. The effect of the Add.Corr. to Para 8 of the Rule 85 under date 6-11-1922 cannot be to cancel the G.O.J.2066 of 1913.

Copy.

District Magistrate, Bangalore District.

31650

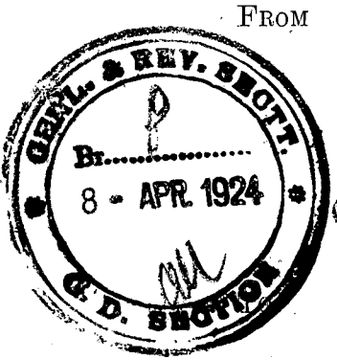
No. C 248/23

OFFICE OF THE
INSPECTOR-GENERAL OF POLICE IN MYSORE,
Dated, Bangalore, the 28th March *19* 24

7-4-24
Cb 27-23-2

FROM

P. F. BOWRING, ESQ., J.P.,
INSPECTOR-GENERAL OF POLICE IN MYSORE,
BANGALORE CITY.



B. Nagappa, Esq., Bar-at-Law,
Secretary to the Government of Mysore,
Local & Legis. Departments.

SIR,

Advertingto Government Order No.P.5845-58/Cts. 1-22-7 dated the 19th January 1923, directing the preparation of copies of records in Sessions cases by Police Officers conducting the same for the use of the Public Prosecutor and the Government Advocate, I have the honor to state that it does not seem to be workable. All the District Superintendents of Police and Assistant Superintendents of Police bring to notice the impracticability of complying with the Government Order referred to above by deputing a clerk of their office for this purpose on the ground that their offices are undermanned and that their ~~clerks~~ staffs are already over-worked, not-withstanding the help rendered by the Executive Staff in clerical work.

The District Police Offices of Bangalore and Mysore have 6 clerks each, while other Districts have 4 clerks each except Shimoga which has 5 clerks. The District Police - Office at Kolar Gold Fields has only one clerk. The work in District Police Offices is increasing every day and the present staff is hardly sufficient to cope with the ever increasing work. Excepting in Bangalore, Mysore and Shimoga the District Police offices are far away from the Head Quarters of the Sessions Judges. In order to copy out ~~the~~ the records in Sessions cases, the clerks have to go to the Head Quarters of the Sessions Judge, stay there for days and

then

G. R. S. VI--G/32]

SUBJECT

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

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Date of issue 23/5/24

Signed by M' Leay.

Section ch

File No. 27-23

Serial No. 3

No. J 6480-1

To

The District Magistrate, Bangalore

" Inspector General of Police.

Sir,

With reference to your letter No. J.C.48/23-4 C. 248/23-4 dated 12-7-23 7-2-24 re. the preparation of copies of depositions etc., by the police for the use of the Public Prosecutors and the Government Advocate as per G.O. NO. P. 5845-58/ Cts. 1-22-7 dated the 19th January 1923, I am directed to invite reference to rules Nos. 51, 67 and 72 of the Rules for the conduct of Legal Affairs of Government published in G.O. No.P. 4966-5045/ Cts. 76-23-12 dated 10/19th March 1924.

I have etc.,

21/5

For Secy to Govt.
L & L Depts.

WD 0632-GPB—1800C—16-8 23